IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.95 OF 2006

Kishore C. Bajaj ...Petitioner

v/s

M/s Indiabulls Securities Ltd.

and others ...Respondents

Mr A.P. Steensons for Petitioner.

Dr V.V. Tulzapurkar with Mr B.B. Saraf i/b M/s M.K.

Ambalal and Co. for Respondent No.1.

CORAM : D.K. DESHMUKH J.

DATE : 17TH APRIL 2006.

P.C. :-

1. By this petition, the petitioner challenges the award made by the learned Arbitrator appointed by the National Stock Exchange. The first grievance made against the award is that the call of margin money was wrongly given to the petitioner. The petitioner gave three cheques, one cheque of Rs.50,000/- was encashed, two cheques were put in for encashment after the account was squared off on 17th May 2004. According to the petitioner therefore, there was no justification for squaring off the account on 17th May 2004 when the respondents were holding the cheques given by the petitioner. But the fact as found by the learned Arbitrator is that the account of the petitioner for margin money was in debit of an amount in excess of Rs.7,00,000/- and as per the terms of the contract it was the obligation of the petitioner to keep himself informed about his margin money status. I do not find any reason disclosed as to why when the account was in debit in so far as the margin money is concerned for more than Rs.7,00,000/- cheques for only Rs.1,50,000/- were given. It was submitted before me that some transactions were made by the respondents without informing the petitioner, but I do not find any

complaint made by the petitioner to any authority before the account was squared off. It was also submitted that the ledger account of the petitioner was not being shown to him and therefore, the petitioner did not know the debit position of the account, but again there is no complaint made with any authority or even with the respondents that the ledger account is not being shown to the petitioner. The entire case turns on appreciation of evidence on record. The learned Arbitrator has appreciated the evidence on record and recorded the findings which are essentially the findings of fact. In these circumstances therefore, in my opinion, in the limited jurisdiction of this Court under section 34 of the Arbitration and Conciliation Act 1996,

the award cannot be disturbed. Petition is rejected.

. Parties to act on the copy of this order duly authenticated by the Associate / Private Secretary as true copy.

. Certified copy expedited.